Supreme Court, U.S.
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No. 90-1315

In The

Supreme Court of the United States

October Term, 1990

HENRY A. FLETCHER, SR., ET UX
ETHELENE FLETCHER,

Petitioners,

v.

DISTRICT BOARD, UNITED PENTECOSTAL CHURCH-TEXAS DISTRICT, UNITED PENTECOSTAL CHURCH INTERNATIONAL, VERNON NEELY AND E. L. HOLLEY,

Respondents.

Petition For A Writ Of Certiorari To The Texas Supreme Court

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION PRESENTED

The questions presented by petitioner are not relevant to the Petition. The issue of fraud was summarily determined by the District Court and reviewed by the Texas Court of Appeals which found no question of law or fact to be presented to the Trier of Fact as to fraud and slander. Respondent files this opposition pursuant to Supreme Court Rule 15.1 to point out misstatements of fact set forth in the Petition which have a bearing on the issue properly before the Court if the Petition would be granted. The following is the only question properly before the Court.

1. Whether a minister's license to preach in a particular church denomination is a property right which can be protected through a civil lawsuit following revocation of the license by the highest governing body of the church.

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DISTRICT BOARD, UNITED PENTECOSTAL CHURCH-TEXAS DISTRICT, UNITED PENTECOSTAL CHURCH-INTERNATIONAL, VERNON NEELY AND E. L. HOLLEY,

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Petition For a Writ of Certiorari
To The Texas Supreme Court

RESPONDENTS' BRIEF IN OPPOSITION

TO THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Respondents, District Board, United Pentecostal Church-Texas District, United

Pentecostal Church International, Vernon L.Neely and E. L. Holley, file this Brief in Opposition to the Petition for Writ of Certiorari filed by petitioners, Henry A. Fletcher, Sr. and Ethelene Fletcher, to review the judgment of the Supreme Court of the State of Texas in the above styled and numbered case on November 21, 1990 which affirmed the judgment of the Court of Appeals of the Ninth District of the State of Texas which, in turn, affirmed the judgment of the 159th Judicial District Court of the State of Texas dismissing the petitioners' causes of action against the respondents.

BACKGROUND FACTS

This cause was originally filed in the 25th Judicial District in Guadalupe County, Texas. The Respondents timely

motion to transfer and the cause was ultimately transferred to the 159th Judicial District Court of Angelina County, Texas, Judge David Walker presiding. Henry A. Fletcher, Sr., petitioner herein, was dropped as a preacher from the Texas District rolls for failure to pay his ministerial tithes which is a prerequisite to be licensed by the District Board of the United Pentecostal Church. His failure to pay his tithes was considered by the fifteen-member District Board, the highest Church Tribunal of the United Pentecostal Church. The Board determined that petitioner had not complied with the Ministerial Financial Plan of the District in that he failed to pay his ministerial tithes. Suit was filed by the Petitioner requesting an injunction and damages.

The Respondents herein filed a Plea to the Jurisdiction alleging the lack of jurisdiction of the Trial Court to hear a matter of church polity, i.e., removal of a preacher for failure to pay his tithe. A Motion for Summary Judgment was filed as to the individuals. Ultimately on May 9, 1989, the Trial Court granted Respondents' Plea to the Jurisdiction and Motion for Summary Judgment. On August 30, 1990, the Court of Appeals affirmed the Trial Court and Petitioners' Motion for Rehearing was denied on September 18, 1990. Petitioner filed Application for Writ of Error which the Supreme Court of the State of Texas denied on November 21, 1990.

ARGUMENT

THE MINISTERIAL LICENSE OF HENRY A. FLETCHER WAS ISSUED BY THE UNITED PENTECOSTAL CHURCH AND THE SAME IS NOT A PROPERTY RIGHT BUT IS A LICENSE ISSUED BY AN ECCLESIASTICAL BODY, THEREFORE, THE TRIAL COURT LACKED JURISDICTION TO REVIEW THE DECISION OF THE HIGHEST GOVERNING BODY OF THE CHURCH IN REGARD TO ITS REVOCATION.

The revocation of Henry Fletcher's ministerial license was a purely ecclesiastical matter. As a minister of the church, Henry Fletcher submitted to the procedures provided by the Church for review of his compliance with the applicable ecclesiastical rules. Hutchison v. Thomas, 789 F.2d 392, (6th Cir.) cert. denied 479 U.S. 885, 107 S.Ct. 277, 93 L.Ed. 2d 253 (1986) The First and Fourteenth amendments to the Constitution of the United States permit religious organizations to establish their own rules and regulations for internal discipline

and government, and to create tribunals for adjudicating disputes over these matters. When this choice is exercised and ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, the Constitution requires that civil courts accept their decisions as binding.

Henry Fletcher was not an employee of the United Pentecostal Church, but was licensed to preach in the church. He agreed to pay tithes according to the Ministerial Financial Plan of the District. The tithing is to enable the church denomination to function. The license as issued by the United Pentecostal Church was not a property right, but was a license governed by the precepts of the Church and as such concerns internal church discipline, faith

and organization governed by ecclesiastical rule. It would not be proper for an ordinary judicial tribunal to determine whether Henry Fletcher was in compliance with the Ministerial Financial Plan of the District nor could the Court apply neutral principals of law to determine if Henry Fletcher had satisfied his tithe to the Church.

It is the right of a religious organization to establish tribunals for the decision of questions arising among themselves. Those decisions should be binding in all cases of ecclesiastical cognizance. Justice would not be promoted by submitting these decisions to review in the ordinary judicial tribunals.

This doctrine was reaffirmed in Serbian Orthodox Diocese for the United States of America and Canada v.

Dionisljee Miliovojevich, et al, (426 U.S. 696, 49 L.Ed. 2d 151 (1976) and Crowder v. Southern Baptist Convention 828 F2d 718, (11th Cir. 1987) (Cert. Denied).

CONCLUSION

Wherefore, for reasons set out herein, a writ of certiorari should not issue to review the judgment and opinion of the Supreme Court of the State of Texas.

Respectfully submitted,

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